

# EXHIBIT 12

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PLEA

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

S5 Cr. 0228 (LTS)

5 ENRICA COTELLESSA-PITZ,

6 Defendant.

7 -----x

8  
9 December 19, 2011  
2:55 p.m.

10 Before:

11 HON. LAURA TAYLOR SWAIN,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: LISA A. BARONI

JULIAN J. MOORE

MATHEW SCHWARTZ

18 Assistant United States Attorneys

19 TIMOTHY J. TREANOR

20 DAVID M. RODY

Attorneys for Defendant

21 - also present -

22 SA Jared Thompson, FBI

23 SA Paul Takla, FBI

P.O. Jeffrey Steimel

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1 THE COURT: Good afternoon. Would everyone other than  
2 the lawyers please be seated.

3 THE CLERK: This case is United States of America  
4 versus Enrica Cotellessa-Pitz.

5 MS. BARONI: Good afternoon, your Honor. Lisa Baroni  
6 for the government. With me is Julian Moore and Matthew  
7 Schwartz from the U.S. Attorney's office and Special Agents  
8 Jared Thompson and Paul Takla from the FBI.

9 THE COURT: Good afternoon, Ms. Baroni, Mr. Moore, Mr.  
10 Schwartz, Agents Thompson and Takla.

11 MR. MOORE: Good afternoon, your Honor.

12 MR. TREANOR: Tim Treanor and David Rody for Enrica  
13 Cotellessa-Pitz. Good afternoon, your Honor.

14 THE COURT: Good afternoon, Mr. Treanor, Mr. Rody, and  
15 good afternoon, Ms. Cotellessa-Pitz.

16 This is Ms. Cotellessa-Pitz's first appearance, is  
17 that correct?

18 MR. TREANOR: Yes, your Honor.

19 THE DEFENDANT: Yes.

20 MR. TREANOR: Yes, your Honor.

21 THE COURT: So let's address the advice of rights  
22 first.

23 And good afternoon everyone. Thank you all for coming  
24 to court.

25 Would you please stand, Ms. Cotellessa-Pitz.

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1 Please state your full name.

2 THE DEFENDANT: Enrica Cotellessa-Pitz.

3 THE COURT: And how old are you, ma'am?

4 THE DEFENDANT: 53.

5 THE COURT: I will now explain certain rights that you  
6 have under the Constitution of the United States.

7 You have the right to remain silent. You need not  
8 make any statement. Even if you have already made statement to  
9 the authorities, you need not make any additional statements.  
10 Any statements that you do make can be used against you.

11 Do you understand these rights?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: You have the right to be released either  
14 conditionally or unconditionally pending trial unless I find  
15 that there are no conditions that would reasonably assure your  
16 presence at future court hearings and the safety of the  
17 community. If the government were to ask me to detain you  
18 pending trial, you are entitled to a prompt hearing on whether  
19 such conditions exist.

20 Do you understand this right?

21 THE DEFENDANT: Yes.

22 THE COURT: You have the right to be represented by an  
23 attorney today and at all future proceedings in this case, and  
24 if you are unable to afford an attorney, I will appoint an  
25 attorney to represent you.

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1 Do you understand these rights?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you wish to have and are you able to  
4 obtain and afford counsel on your own?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you retained Messrs. Treanor and Rody  
7 to represent you?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Are you a citizen of the United States?

10 THE DEFENDANT: Yes.

11 THE COURT: The document that contains the charges  
12 against you is called an information. It has been issued by  
13 the United States Attorney. You have a constitutional right to  
14 be charged by an indictment rather than by an information. An  
15 indictment would be a charge issued from a grand jury.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Mr. Treanor, do you have the Waiver of  
19 Indictment form there, and would you show it to  
20 Ms. Cotellessa-Pitz?

21 MR. TREANOR: Yes, your Honor.

22 THE COURT: Thank you.

23 Ms. Cotellessa-Pitz, have you signed this waiver of  
24 indictment?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Did you read it before you signed it?

2 THE DEFENDANT: Yes.

3 THE COURT: Did you understand it before you signed  
4 it?

5 THE DEFENDANT: Yes.

6 THE COURT: And did you discuss it with your attorneys  
7 before you signed it?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that if you did not  
10 waive indictment, if the government wanted to prosecute you on  
11 the charges that are in the Information, it would have to  
12 present those charges to a grand jury, which might or might not  
13 indict you on them?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that you are under no  
16 obligation to waive indictment?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that by waiving  
19 indictment you are giving up your right to have these charges  
20 presented to a grand jury?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand what a grand jury is?

23 THE DEFENDANT: Yes.

24 THE COURT: Did anyone give you anything or make any  
25 threat or promises to get you to waive indictment?

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1 THE DEFENDANT: No.

2 THE COURT: Have you seen a copy of the Fifth  
3 Superseding Information that has number S5 10 Criminal 228 at  
4 the top?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you read it?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you discussed it with your attorneys?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand the charges against you  
11 that are detailed in the Information?

12 THE DEFENDANT: Yes.

13 THE COURT: If you want me to, I can read the  
14 Information out loud for you here in court.

15 Do you want me to read it to you?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Are you taking any medication or suffering  
18 from any condition that affects your ability to think clearly?

19 THE DEFENDANT: No.

20 THE COURT: Is your mind clear today?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you feeling well physically today?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you feel comfortable making important  
25 decisions for yourself today?

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1 THE DEFENDANT: Yes.

2 THE COURT: In the past 24 hours, have you taken any  
3 drugs, medicine or pills or drunk any alcohol?

4 THE DEFENDANT: Just my prescription medications.

5 THE COURT: And did you take those medications on  
6 schedule?

7 THE DEFENDANT: Yes.

8 THE COURT: Does any of those medications affect your  
9 ability to think clearly?

10 THE DEFENDANT: No.

11 THE COURT: I find that Ms. Cotellessa-Pitz's Waiver  
12 of Indictment is knowing and voluntary, and I accept it and I  
13 so order it.

14 How do you intend to plead to the charges against you  
15 that are in that Information, not guilty or guilty?

16 THE DEFENDANT: Guilty.

17 THE COURT: Now, Ms. Cotellessa-Pitz, you can have a  
18 seat for a moment. I have a couple of questions for counsel.

19 Mr. Treanor, this plea is pursuant to the agreement  
20 that has been marked as Government Exhibit 1, is that correct?

21 MR. TREANOR: That is correct, your Honor.

22 THE COURT: And it is a letter addressed to you and  
23 Mr. Rody dated today -- the printed date, I'm sorry, not today,  
24 December 15th, last Thursday, at the top, is that correct?

25 MR. TREANOR: That is correct.



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1 THE COURT: And the advice of rights form has also  
2 been executed and marked as Court Exhibit 1, is that correct?

3 MR. TREANOR: Yes, your Honor.

4 THE COURT: Thank you. Ms. Baroni or Mr. Moore, would  
5 you make a statement regarding victim notification in  
6 connection with this proceeding?

7 MS. BARONI: Yes, your Honor.

8 Last Thursday, on December 15th, we sent a letter to  
9 your Honor outlining the proposed charges against  
10 Ms. Cotellessa-Pitz, and advising your Honor that she would  
11 plead guilty pursuant to a cooperation agreement with the  
12 government. On that date we posted that letter on the  
13 government's website on a page dedicated to Madoff-related  
14 cases for victim notification.

15 THE COURT: Thank you.

16 Ms. Cotellessa-Pitz, before I accept your guilty plea,  
17 there are a number of questions that I must ask you while you  
18 are under oath to assure that it is a valid plea. At times I  
19 may cover a point more than once, and I may cover matters that  
20 were also addressed in the advice of rights form that you have  
21 seen, but if I do that will be because it is very important  
22 that you understand what is happening here today.

23 If you don't understand something that I ask you,  
24 please say so and I will reword the question or you may speak  
25 with your attorneys.

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1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Please stand now to take the oath.

4 Ms. Ng, would you administer the oath, please.

5 THE CLERK: Please raise your right hand.

6 (The defendant was sworn)

7 THE COURT: Would you please state your full name for  
8 the record.

9 THE DEFENDANT: Enrica Cotellessa-Pitz.

10 THE COURT: Do you understand that you have solemnly  
11 promised to tell the truth, and that if you answer any of my  
12 questions falsely, your false or untrue answers may later be  
13 used against you in another prosecution for perjury or making a  
14 false statement?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: You can be seated for the next portion of  
17 the proceeding.

18 Was the information that you gave me about your age  
19 and your mental condition a little while ago completely true?

20 THE DEFENDANT: Yes.

21 THE COURT: How far did you go in school?

22 THE DEFENDANT: An undergraduate degree from college.

23 THE COURT: In what field.

24 THE DEFENDANT: Economics.

25 THE COURT: And what types of work have you done since

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1 finishing your final education?

2 THE DEFENDANT: I worked in the financial industry.

3 THE COURT: Are you able to speak, read and understand  
4 the English language well?

5 THE DEFENDANT: Yes.

6 THE COURT: Counsel, does any of you have any doubt as  
7 to Ms. Cotellessa-Pitz's competence to enter a guilty plea at  
8 this time?

9 MR. TREANOR: No, your Honor.

10 MS. BARONI: No, your Honor.

11 THE COURT: Ms. Cotellessa-Pitz, your attorneys have  
12 informed me that you -- and you actually have informed me  
13 yourself that you wish to enter a guilty plea to the  
14 Information. Do you wish to enter a plea of guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Have you fully discussed your case with  
17 your attorneys, including the charges to which you intend to  
18 plead guilty and any defenses that you may have to those  
19 charges?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Have you and your attorneys also discussed  
22 the consequences of entering a guilty plea?

23 THE DEFENDANT: Yes.

24 THE COURT: Are you satisfied with your attorneys and  
25 their representation of you?

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1 THE DEFENDANT: Yes.

2 THE COURT: On the basis of Ms. Cotellessa-Pitz's  
3 responses to my questions and my observations of her demeanor,  
4 I find that she is fully competent to enter an informed plea at  
5 this time.

6 Before I accept your plea, ma'am, I am going to ask  
7 you some more questions. Thee questions are intended to  
8 satisfy the Court that you wish to plead guilty because you are  
9 in fact guilty and that you fully understand your rights and  
10 the consequences of your plea.

11 Now I will describe certain right that you have under  
12 the Constitution and laws of the United States. You will be  
13 giving up these rights if you enter a guilty plea. Please  
14 listen carefully. If you do not understand something that I am  
15 saying or describing, stop me and I or your attorney will  
16 explain it more fully.

17 Under the Constitution and laws of the United States,  
18 you have the right to a speedy and public trial by a jury on  
19 the charges against you that are in the Information. Do you  
20 understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that you have the right  
23 to plead not guilty and to continue to plead not guilty?

24 THE DEFENDANT: Yes.

25 THE COURT: If there were a trial, you would be

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1 presumed innocent and the government would be required to prove  
2 you guilty by competent evidence and beyond a reasonable doubt.  
3 You would not have to prove that you were innocent at a trial.  
4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: If there were a trial, a jury composed of  
7 twelve people selected from this district would have to agree  
8 unanimously in order to find you guilty. Do you understand  
9 that?

10 THE DEFENDANT: Yes.

11 THE COURT: If there were a trial, and at all stages  
12 leading up to it, you would have the right to be represented by  
13 an attorney, and if you could not afford one, an attorney would  
14 be provided to you free of cost. Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: If there were a trial, you would have the  
17 right to see and hear all of the witnesses against you and your  
18 attorney could cross-examine them. You would also have the  
19 right to have your attorney object to the government's evidence  
20 and offer evidence on your behalf, if you so desired. In  
21 addition, you would have the right to have witnesses required  
22 to come to court to testify in your defense. And you would  
23 have the right to testify yourself but you would not be  
24 required to testify.

25 Do you understand all of that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that if there were a  
3 trial and you decided not to testify, no adverse inference  
4 could be drawn against you based on your decision not to  
5 testify?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that if you were  
8 convicted at a trial, you would have the right to appeal that  
9 verdict?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand each and every one of  
12 the rights that I've asked you about?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Do you have any questions about any of  
15 these rights?

16 THE DEFENDANT: No.

17 THE COURT: Do you understand that by entering a  
18 guilty plea today, you will be giving up each and every one of  
19 these rights?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you also understand that you will be  
22 giving up any possible claim that your constitutional rights  
23 may have been violated?

24 THE DEFENDANT: Yes.

25 THE COURT: And do you understand that if you plead

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1 guilty you will have no trial?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that by pleading guilty  
4 you will also have to give up your right not to incriminate  
5 yourself, because I will ask you questions about what you did  
6 in order to satisfy myself that you are guilty as charged and  
7 you will have to admit and acknowledge your guilt?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that you can change your  
10 mind right now and refuse to enter a plea of guilty? You do  
11 not have to enter this plea if you do not want to for any  
12 reason. Do you understand this fully?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you still wish to plead guilty?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Do you understand that Count One of the  
17 Superseding Information charges you participating in a  
18 conspiracy to, one, obstruct or impede the lawful government  
19 functions of the Internal Revenue Service in the ascertainment,  
20 assessment, computation and collection of income taxes; two,  
21 falsified books and records of a broker-dealer; three,  
22 falsified books and records of an investment advisor; and,  
23 four, make false filings with the United States Securities and  
24 Exchange Commission, all in violation of Title 18 of the United  
25 States Code, Section 371?

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THE DEFENDANT: Yes.

THE COURT: Do you understand that Count Two of the Superseding Information charges you with falsifying books and records of a broker-dealer, in violation of Title 15 of the United States Code, Section 78qa and 78ff; Title 17 of the Code of Federal Regulations, Section 240.17a-3, and Title 18 of the United States Code, Section 2?

THE DEFENDANT: Yes.

THE COURT: Do you understand that Count Three of the Superseding Information charges you with falsifying books and records of an investment advisor, in violation of Title 15 of the United States Code, Sections 80b-4 and 80b-17; Title 17 of the Code of Federal Regulations, Section 275.204-2, and Title 18 of the United States Code, Section 2?

THE DEFENDANT: Yes.

THE COURT: Do you understand that Count Four of the Superseding Information charges you making false filings with the Securities and Exchange Commission, in violation of Title 15 of the United States Code, Sections 78q and 78ff; Title 17 of the Code of Federal Regulations, Sections 240.17a-5, 240.17a-13, and 210.2-01; as well as Title 18 of the United States Code Section 2?

THE DEFENDANT: Yes.

THE COURT: Do you understand that the government would have to prove each and every part, or element, of each of



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1 these charges beyond a reasonable doubt at a trial if you did  
2 not plead guilty?

3 THE DEFENDANT: Yes.

4 THE COURT: Ms. Baroni or Mr. Moore, would you please  
5 state for the record the elements that the government would  
6 have to prove if we were to go to trial on these charges?

7 MS. BARONI: Yes, your Honor.

8 With respect to Count One, the conspiracy count, the  
9 government would have to prove the following elements beyond a  
10 reasonable doubt: First, that the conspiracy charged in the  
11 Information existed, in other words, that there was in fact an  
12 agreement or understanding to either violate the laws of the  
13 United States or to defraud the United States; second, that the  
14 defendant knowingly, willingly and voluntarily became a member  
15 of the conspiracy; third, that any one of the conspirators, not  
16 necessarily the defendant, knowingly committed at least one  
17 overt act in the Southern District of New York in furtherance  
18 of the conspiracy and during the life of the conspiracy.

19 With respect to Count Two, falsifying books and  
20 records of a broker-dealer, in order to prove this crime the  
21 government would have to prove beyond a reasonable doubt the  
22 following elements: First, that at the time of the alleged  
23 offense Bernard L. Madoff Investment Securities was a  
24 registered broker-dealer; second, that BLMIS failed to make and  
25 keep certain accurate records as required under the SEC's rules

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1 and regulations; third, that the defendant aided and abetted  
2 BLMIS's failure to make and keep accurate records; and, fourth,  
3 that the defendant acted knowingly and willfully.

4 With respect to Count Three, falsifying books and  
5 records of an investment advisor, the government would have to  
6 prove, first, that at the time of the alleged offense BLMIS was  
7 an investment advisor; second, that BLMIS failed to make and  
8 keep certain accurate records as required under the SEC's rules  
9 and regulations; third, that the defendant aided and abetted  
10 BLMIS's failure to make and keep accurate records; fourth, that  
11 the defendant acted knowingly and willfully; and, fifth, that  
12 the offense involved the use of mails and the means and  
13 instrumentalities of interstate commerce.

14 And, finally, with respect to Count Four, making false  
15 filings with the SEC, the government would have to prove,  
16 first, that the defendant was required to file an application,  
17 report or document with the SEC under the Securities Exchange  
18 Act of 1934 and the rules and regulations thereunder; second --

19 THE COURT: The defendant personally or BLMIS?

20 MS. BARONI: The defendant or the BLMIS, actually,  
21 your Honor.

22 That the application or report or document filed with  
23 the SEC contained false or misleading statements; third, that  
24 the false or misleading statements were material; and, fourth,  
25 that the defendant acted knowingly and willfully.

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1 THE COURT: Thank you.

2 Ms. Cotellessa-Pitz, do you understand the matters  
3 that the government would have to prove if you did not plead  
4 guilty?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Do you understand that the maximum  
7 possible penalty for the crime with which you are charged in  
8 Count One is five years of imprisonment, plus a fine of the  
9 greatest of \$250,000, twice the gain resulting from the offense  
10 or twice the loss to other people resulting from the offense,  
11 plus a \$100 special assessment, plus full restitution to all  
12 persons injured as a result of your criminal conduct, plus  
13 three years of supervised release after your term of  
14 imprisonment?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that the maximum  
17 possible penalty for the crime with which you are charged in  
18 Count Two is 20 years of imprisonment, plus a fine of the  
19 greatest of \$5 million, twice the gain resulting from the  
20 offense or twice the loss to other people resulting from the  
21 offense, plus a \$100 special assessment, plus full restitution  
22 to all persons injured as a result of your criminal conduct,  
23 plus three years of supervised release after your term of  
24 imprisonment?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that the maximum  
2 possible penalty for the crime with which you are charged in  
3 Count Three is five years of imprisonment, plus a fine of the  
4 greatest of \$250,000, twice the gain resulting from the offense  
5 or twice the loss to other people resulting from the offense,  
6 plus a \$100 special assessment, plus full restitution to all  
7 persons injured as a result of your criminal conduct, plus  
8 three years of supervised release after your term of  
9 imprisonment?

10 THE DEFENDANT: Yes.

11 THE COURT: And do you understand that the maximum  
12 possible penalty for the crime with which you are charged in  
13 Count Four is 20 years of imprisonment, plus a fine of the  
14 greatest of \$5 million, twice the gain resulting from the  
15 offense or twice the loss to other people resulting from the  
16 offense, plus a \$100 special assessment, plus full restitution  
17 to all persons injured as a result of your criminal conduct,  
18 plus three years of supervised release after your term of  
19 imprisonment?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that the maximum  
22 possible combined penalty for the four crimes with which you  
23 are charged is 50 years of imprisonment, plus a fine of the  
24 greatest of -- plus a fine of \$10,500,000 or, if greater, the  
25 sums of the relevant gains, losses and statutory amounts

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1 relating to your offenses, plus full restitution to all persons  
2 injured by your criminal conduct, plus \$400 total mandatory  
3 special assessment, plus supervised release for three years  
4 after your term of imprisonment?

5 THE DEFENDANT: Yes.

6 THE COURT: I will now give you some information and  
7 verify your understanding of the supervised release aspect of  
8 the potential penalty.

9 Supervised release means that you will be subject to  
10 monitoring when you are released from prison. Terms and  
11 conditions will be imposed. If you violate any of the set  
12 terms and conditions you can be reimprisoned without a jury  
13 trial.

14 If you are on supervised release and you do not comply  
15 with any of the set terms or conditions, you can be returned to  
16 prison for the remainder of the term of supervised release, you  
17 will be given no credit for the time that you served in prison  
18 as a result of your sentence, and no credit for any time spent  
19 on post-release supervision.

20 So, for example, if you received a prison term and  
21 then a three-year term of supervised release and after you left  
22 prison you lived up to the terms of supervised release for two  
23 years but then you violated some term of the supervised  
24 release, you could be returned to prison for three full years.

25 Do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that if I accept  
3 your guilty plea and adjudge you guilty, that adjudication may  
4 deprive you of valuable civil rights such as the right to vote,  
5 the right to hold public office, the right to serve on a jury,  
6 and the right to possess any kind of firearm?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that there are  
9 Sentencing Guidelines that the Court must consider in  
10 determining your sentence?

11 THE DEFENDANT: Yes.

12 THE COURT: Has your attorney discussed the Sentencing  
13 Guidelines with you?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that in determining your  
16 sentence, the Court must calculate the applicable Sentencing  
17 Guidelines' range and consider that range, possible departures  
18 under the Sentencing Guidelines, and other sentencing factors  
19 under Title 18 of the United States Code, Section 3553(a)?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that if your attorney or  
22 anyone else has attempted to estimate or predict what your  
23 sentence will be, their estimate or prediction could be wrong?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you also fully understand that even if

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1 your sentence is different from what your attorney or anyone  
2 else told you it might be, or if it is different from what you  
3 expect, you will still be bound to your guilty plea and you  
4 will not be allowed to withdraw your guilty plea?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that the sentence to be  
7 imposed will be determined solely by the Court, and that I can  
8 only determine the sentence to be imposed after the Probation  
9 Department prepares a presentence report?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that the Court has  
12 discretion, while taking into account the specific provisions  
13 and policy statements in the guidelines, to sentence you to any  
14 number of years of imprisonment between zero and the combined  
15 statutory maximums of 50 years?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you now serving any state or federal  
18 sentence, or are you being prosecuted for any other crime?

19 THE DEFENDANT: No.

20 THE COURT: Do you understand that the Superseding  
21 Information also includes a forfeiture allegation in which the  
22 government asserts that you are required to forfeit to the  
23 United States all property, real and personal, that constitutes  
24 or is derived from proceeds traceable to the commission of the  
25 offenses charged in Counts One and Two of the Information

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1 including, but not limited to, a sum of money equal to  
2 \$97.3 billion, representing the amount of proceeds obtained as  
3 a result of those offenses?

4 THE DEFENDANT: Yes.

5 THE COURT: Mr. Treanor, would you please show  
6 Ms. Cotellessa-Pitz Government Exhibit 1, the agreement.

7 Ms. Cotellessa-Pitz, have you signed this agreement?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Did you read it before you signed it?

10 THE DEFENDANT: Yes.

11 THE COURT: Did you discuss it with your attorneys  
12 before you signed it?

13 THE DEFENDANT: Yes.

14 THE COURT: Did you fully understand the agreement  
15 before you signed it?

16 THE DEFENDANT: Yes.

17 THE COURT: Does the agreement reflect accurately your  
18 complete and total understanding of the entire agreement  
19 between the government, your attorney and you?

20 THE DEFENDANT: Yes.

21 THE COURT: Is everything that you understand about  
22 your plea, cooperation and sentence covered in this agreement?

23 THE DEFENDANT: Yes.

24 THE COURT: Has anything been left out?

25 THE DEFENDANT: No.



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1 THE COURT: Has anyone made any promises to you other  
2 than what's set forth in that agreement, or given you anything  
3 or threatened you or forced you to plead guilty or to enter  
4 into the cooperation agreement?

5 THE DEFENDANT: No.

6 THE COURT: Do you understand that even if the  
7 government does not oppose or take a position on what your  
8 attorney will ask as a sentence, I am free to impose whatever  
9 sentence I believe is appropriate under the circumstances and  
10 the applicable law and you will have no right to withdraw your  
11 plea?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that the agreement  
14 provides that you must cooperate fully with the Office of the  
15 United States Attorney, the Federal Bureau of Investigation,  
16 the United States Department of Labor, the Internal Revenue  
17 Service, and any other law enforcement agency designated by the  
18 United States Attorney?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that the agreement does  
21 not bind any federal, state or local prosecuting authority  
22 other than the United States Attorney?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that the agreement  
25 provides that if the United States Attorney determines that you

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1 have provided substantial assistance in an investigation or  
2 prosecution, and if you have fully complied with the  
3 understandings specified in the agreement, the United States  
4 Attorney will file a motion pursuant to Section 5K1.1 of the  
5 Sentencing Guidelines requesting that the court sentence you in  
6 light of the factors set forth in that section?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that the factors that  
9 the Court may consider under Section 5K1.1 include the  
10 significance and usefulness of your assistance, the  
11 truthfulness, completeness and reliability of any information  
12 or testimony you provide, the nature and extent of your  
13 assistance, any injuries suffered or any danger or risk of  
14 injury to you or your family as a result of your assistance,  
15 and the timeliness of your assistance?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that even if the United  
18 States Attorney files such a motion, the sentence to be imposed  
19 on you remains within the sole discretion of the Court?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that you will not be  
22 entitled to withdraw your plea even if the Court denies the  
23 motion?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that if the United

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1 States Attorney determines that you have not provided  
2 substantial assistance, or that you violated any provision of  
3 the agreement, the United States Attorney is not obligated to  
4 file a motion under Section 5K1.1?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that you will not be  
7 entitled to withdraw your guilty plea even if the United States  
8 Attorney does not file a motion?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that the agreement  
11 provides that if you commit any further crimes or if it is  
12 determined that you gave false, incomplete or misleading  
13 testimony or information, or that you otherwise violated any  
14 provision of the agreement, you will be subject to prosecution  
15 for any federal violations of which the United States Attorney  
16 has knowledge, including perjury and obstruction of justice?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you also understand that your agreement  
19 provides that if you commit any further crimes, or if it is  
20 determined that you gave false, incomplete or misleading  
21 testimony or information, or otherwise violated any provision  
22 of the agreement, all statements made by you to the United  
23 States Attorney or other designated law enforcement agents and  
24 any testimony you have given before a grand jury or other  
25 tribunal may be admissible in evidence in any criminal

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proceedings against you?

THE DEFENDANT: Yes.

THE COURT: Do you understand that your agreement also provides that you may not assert a claim that such statements should be suppressed from evidence and that you have waived your right to claim that such statements should be suppressed from evidence?

THE DEFENDANT: Yes.

THE COURT: Do you understand that on page 2, your agreement, which is Government Exhibit 1, provides that you are admitting the forfeiture allegation in the Information and that you are agreeing to forfeit to the United States all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of those offenses, including, but not limited to, a sum of money equal to \$97.3 billion, representing the amount of proceeds obtained as a result of the offenses charged in Counts One and Two of the Information?

THE DEFENDANT: Yes.

THE COURT: Do you understand that you are not obligated to admit the forfeiture obligation?

THE DEFENDANT: Yes.

THE COURT: Do you understand that on page 5 -- just one moment.

(Pause)

Sorry for the delay.

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1 Ms. Baroni, is there a factual basis or other reason  
2 for my specifically querying the immigration-related agreement  
3 that is on page 5?

4 MS. BARONI: No, your Honor.

5 THE COURT: Ms. Cotellessa-Pitz, do you understand  
6 that any amount that you do forfeit will not be credited toward  
7 any fines, restitution, costs of imprisonment, or any other  
8 additional penalty that the Court may impose on you?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you still wish to plead guilty pursuant  
11 to this plea agreement?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Messrs. Treanor and Rody, does either of  
14 you know of any valid reason why Ms. Cotellessa-Pitz would  
15 prevail at trial?

16 MR. TREANOR: No, your Honor.

17 MR. RODY: No, your Honor.

18 THE COURT: Does either of you know of any reason why  
19 she should not be permitted to plead guilty?

20 MR. TREANOR: No, your Honor.

21 MR. RODY: No, your Honor.

22 THE COURT: Ms. Cotellessa-Pitz, would you please  
23 stand now and tell me what you did that makes you guilty of the  
24 crimes to which you are pleading guilty.

25 Your counsel may stand with you, if that will make you

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1 more comfortable.

2 THE DEFENDANT: I have a statement here.

3 I am here to plead guilty to the counts in the  
4 Information filed against me and to accept responsibility for  
5 what I have done.

6 From approximately 1999 through December 2008, while  
7 working for Bernard Madoff, I made accounting entries in the  
8 books and records of his business that I knew were false and  
9 inaccurate, and I filed document with regulatory authorities  
10 and others that I knew repeated these falsehoods and  
11 inaccuracies. I now know that these acts helped Bernard Madoff  
12 and others perpetuate a fraud that harmed thousands of people,  
13 and I am terribly sorry that I contributed to the harm done to  
14 so many.

15 I would like to explain my role further.

16 I began working at Bernard L. Madoff Investment  
17 Securities, LLC, which I will refer to as "BLMIS," in 1978 as a  
18 part-time employee while I was still in college. For the next  
19 30 years, I continued to work at BLMIS primarily performing  
20 functions in the operations department associated with BLMIS's  
21 Proprietary Trading and Market Making businesses.

22 During the entire time I worked at BLMIS, I reported  
23 to Daniel Bonventre, who was the director of operations at the  
24 firm.

25 In late 1998, I was promoted to comptroller of BLMIS.

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1 In that capacity, I assisted Bonventre in maintaining the books  
2 and records of BLMIS, which included the General Ledger and  
3 stock records. I also regularly prepared the Financial and  
4 Operational Combined Uniform Single Reports, also know as  
5 "FOCUS Reports," that were filed with the Securities and  
6 Exchange Commission. In addition, I occasionally assisted  
7 Annette Bongiorno, Joann Crupi and others in maintaining books  
8 and records relating to Investment Advisory accounts and  
9 signing redemption checks issued to investors.

10 During the period when I was comptroller of BLMIS, I  
11 agreed with and worked together with other BLMIS employees to  
12 violate the laws of the United States, and I took a number of  
13 actions over the years at BLMIS's offices in Manhattan that  
14 constituted violations of U.S. laws. I did so knowingly and  
15 willfully, and knew that what I was doing was wrong and  
16 unlawful.

17 My conduct included a number of acts that I would like  
18 to describe.

19 From about 1999 through December 2008, I worked with  
20 others to make false entries in the books and records of BLMIS  
21 and to cause the filing of false documents with the SEC. As a  
22 registered broker-dealer and as an investment advisor, BLMIS  
23 was required to make and keep accurate books and records under  
24 the SEC's rules. At the direction of Madoff, Bonventre and  
25 others, I caused inaccurate ledgers and other books and records

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1 to be created and kept by BLMIS, including inaccurate general  
2 ledgers and stock records. I then transferred the same  
3 inaccurate record entries into FOCUS Reports and annual  
4 financial statements that I knew would be sent to the SEC.

5 The false documents were prepared at the BLMIS offices  
6 in Manhattan, and some of these documents were submitted  
7 through the U.S. Mail.

8 While undertaking these actions, I knew that what I  
9 was doing was wrong.

10 The following are a few examples of the types of false  
11 records I created and maintained.

12 From about 1999 through December 2008, I made false  
13 and inaccurate entries in the books and records of BLMIS  
14 relating to transfers of funds from BLMIS's Investment Advisory  
15 business. At various times, I believed these transfers to be  
16 the interest or commissions from securities trading in the  
17 personal accounts of Bernard Madoff or the accounts of  
18 customers of the Investment Advisory business. Nevertheless,  
19 at the direction of Madoff, Bonventre and others, I booked  
20 these transfers improperly to the accounts of BLMIS's  
21 Proprietary Trading and Market Making businesses, and recorded  
22 these false entries in BLMIS's Trading Ledgers, General  
23 Ledgers, and other supporting books and records of BLMIS's  
24 Proprietary Trading and Market Making businesses.

25 In addition, at the direction of Bonventre and others,



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1 I booked the transfers of funds at times into specific  
2 securities or trading positions and accounts that were part of  
3 the firm's Proprietary Trading and Market Making businesses. I  
4 knew that the transfers bore no relation to these securities or  
5 positions, and that the funds did not result from trading in  
6 these securities through the firm's Proprietary Trading and  
7 Market Making businesses and, therefore, that my entries were  
8 false. I understood that my entries falsely inflated the  
9 revenue, increased the profits, and hid the losses of the  
10 Proprietary Trading and Market Making businesses and at the  
11 same time did not accurately report the financial condition of  
12 BLMIS as a whole.

13 In addition, in 2005, the SEC conducted an audit of  
14 BLMIS's businesses. At Madoff's direction and in response to  
15 this audit, I, together with others, created false books and  
16 records to be shown to the auditors.

17 For example, the SEC requested a list and description  
18 of all BLMIS trading accounts as well as a report reflecting  
19 the monthly profit and loss for each of the trading accounts  
20 for a three-month period in 2005. In response, I, together  
21 with Bonventre, O'Hara and others, created several false  
22 trading account reports that were given to the SEC. In those  
23 reports, among other things, we intentionally omitted an  
24 account affiliated with the Investment Advisory business.

25 I knew that my actions in creating these false reports

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1 and omitting this account were wrong and would have the effect  
2 of misleading the SEC and concealing the account from the SEC.

3 Separately, I assisted Madoff and other BLMIS  
4 employees in defrauding the United States by preventing the  
5 Internal Revenue Service from collecting the proper amount of  
6 income taxes from Madoff. I did this in 2007, when the IRS  
7 audited Madoff's 2004 and 2005 federal tax returns, as well as  
8 on other occasions.

9 In 2007, at the direction of Madoff and his  
10 accountant, David Friehling, I, together with Bonventre, O'Hara  
11 and others, created a false backdated General Ledger and  
12 Trading Ledger and created false reports derived from the  
13 Trading Ledger in order to support Madoff's false tax returns.  
14 In addition, I, together with Bonventre and others, fabricated  
15 backdated positions in certain stocks in a backdated trading  
16 ledger. I knew that the backdated stock positions were not  
17 real and that the false General Ledger and Trading Ledger were  
18 being created in order to deceive IRS tax auditors in  
19 connection with Madoff's tax returns.

20 The altered backdated documents that I helped to  
21 create were shown to an IRS auditor.

22 I believe that the actions I have described above make  
23 me guilty of the crimes charged in Counts One, Two, Three and  
24 Four of the Information, and I plead guilty to those charges  
25 because I am responsible for committing those crimes.

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1           Although I now know that the crimes I committed helped  
2           to cover up and perpetuate Bernard Madoff's fraudulent Ponzi  
3           scheme, at the time I committed these crimes I did not know  
4           that Madoff and others were stealing investors' money instead  
5           of actually investing the money through securities trading.  
6           Nonetheless, the consequences of my actions are clear to me  
7           now, and for that I am, again, terribly sorry.

8           I would like to apologize to the victims of the fraud,  
9           and I would like the Court and the public to know that I am  
10          cooperating fully with the government in this matter.

11          Thank you, your Honor.

12          THE COURT: Thank you.

13          Now, I notice that you were reading from notes as you  
14          made that factual recitation. Do those notes reflect  
15          accurately and truthfully your own actions and knowledge as of  
16          the time of the relevant events?

17          THE DEFENDANT: Yes, they do.

18          THE COURT: And to confirm, you knew at the time that  
19          you made these false records and false submissions that you  
20          have described that the information in them was false?

21          THE DEFENDANT: Yes, your Honor.

22          THE COURT: And you nonetheless made them and  
23          submitted them willfully?

24          THE DEFENDANT: Yes, your Honor.

25          THE COURT: Ms. Baroni, does the government wish

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1 anything further as a factual matter to be addressed in the  
2 plea allocution?

3 MS. BARONI: No, your Honor.

4 THE COURT: Thank you.

5 Ms. Baroni, would you please summarize the  
6 government's evidence against Ms. Cotellessa-Pitz.

7 MS. BARONI: Yes, your Honor.

8 If this case had proceeded to trial, the government  
9 would have proven, through witness testimony, documents and  
10 other evidence, beyond a reasonable doubt all the facts set  
11 forth in the Superseding Information.

12 Specifically, the government would have proven that  
13 Ms. Cotellessa-Pitz was employed at BLMIS from 1978 until at  
14 least December 2008; that beginning in 1998 she became a  
15 comptroller.

16 The evidence would show that Ms. Cotellessa-Pitz,  
17 along with Daniel Bonventre, Annette Bongiorno, Joann Crupi,  
18 Jerome O'Hara, George Perez, Eric Lipkin, David Kugel and Frank  
19 DiPascali, and other co-conspirators, engaged in a scheme to  
20 create many false and misleading entries in the books and  
21 records of BLMIS that lasted for decades.

22 Ms. Cotellessa-Pitz, the evidence would show, worked  
23 under the supervision of Mr. Bonventre, and that she engaged in  
24 an accounting fraud that covered up Mr. Madoff's Ponzi scheme.

25 The evidence would prove that they took proceeds --

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1 she, Mr. Bonventre and others took proceeds from the Ponzi  
2 scheme, which was a fraud run through the Investment Advisory  
3 business, and made it appear that the money belonged in other  
4 parts of Madoff's businesses. This allowed Madoff to avoid  
5 scrutiny by hiding the fact that the money came from the  
6 fraudulent IA business, and it also allowed Madoff to prop up  
7 BLMIS's market making and prop trading businesses that were  
8 losing money and that served as a front for the Ponzi scheme.

9 The government would also prove, if this case had gone  
10 to trial, that Ms. Cotellessa-Pitz, Mr. Bonventre and others  
11 made similar false and misleading statements in reports that  
12 were required to be filed with the SEC.

13 In addition, the government would prove that  
14 Ms. Cotellessa-Pitz, along with Daniel Bonventre, Jerome  
15 O'Hara, George Perez, Joann Crupi, Eric Lipkin, Frank DiPascali  
16 and other co-conspirators, created false and fraudulent  
17 documents for the purpose of deceiving the Securities and  
18 Exchange Commission. For example, the government would prove  
19 that in connection with an audit of BLMIS conducted by the SEC  
20 in 2005, Ms. Cotellessa-Pitz, Bonventre, O'Hara and others  
21 created numerous false and altered documents that were given to  
22 the SEC relating to BLMIS's trading accounts, bank accounts,  
23 and relating to its profitability and loss.

24 Further, and separately, the government would also  
25 prove that Ms. Cotellessa-Pitz, Daniel Bonventre, Jerome O'Hara

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1 and Madoff's accountant David Friehling, along with other  
2 co-conspirators, created false and fraudulent documents in  
3 connection with tax audits of Bernard L. Madoff. For example,  
4 in 2004, when New York State Department of Taxation and Finance  
5 conducted an audit of Madoff, Ms. Cotellessa-Pitz, Bonventre,  
6 O'Hara, Friehling and others covered up the fact that  
7 Mr. Madoff had underreported BLMIS's profits by tens of  
8 millions of dollars in each of those years and in that cover-up  
9 Ms. Cotellessa-Pitz, Bonventre, O'Hara and others created fake  
10 general ledgers and stock records and other documents to  
11 deceive the tax auditors.

12 The government would further prove that  
13 Ms. Cotellessa-Pitz and her co-conspirators did the same in  
14 connection with a 2007 audit conducted by the Internal Revenue  
15 Service.

16 THE COURT: Thank you.

17 Ms. Cotellessa-Pitz, would you please stand again.

18 How do you now plead to the charge against you in  
19 Count One of the Fifth Superseding Information, not guilty or  
20 guilty?

21 THE DEFENDANT: Guilty.

22 THE COURT: How do you now plead to the charge against  
23 you in Count Two of the Fifth Superseding Information, not  
24 guilty or guilty?

25 THE DEFENDANT: Guilty.

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1 THE COURT: How do you now plead to the charge against  
2 you in Count Three of the Fifth Superseding Information, not  
3 guilty or guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: And how do you now plead to the charge  
6 against you in Count Four of the Fifth Superseding Information,  
7 not guilty or guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: Are you pleading guilty to each of these  
10 charges because you are in fact guilty of the illegal conduct  
11 charged?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Are you pleading guilty voluntarily and of  
14 your own free will?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Treanor, would you please show  
17 Ms. Cotellessa-Pitz Court Exhibit 1, the advice of rights form.

18 Ms. Cotellessa-Pitz, have you signed this form?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Did you read it before you signed it?

21 THE DEFENDANT: Yes.

22 THE COURT: Did you discuss it with your attorney  
23 before you signed it?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Did you fully understand it before you

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1 signed it?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Treanor, did you also review and sign  
4 Court Exhibit 1?

5 MR. TREANOR: Yes, I did, your Honor.

6 THE COURT: Mr. Treanor, are there any other questions  
7 that you believe I should ask Ms. Cotellessa-Pitz in connection  
8 with this plea?

9 MR. TREANOR: No, your Honor.

10 THE COURT: Ms. Baroni, are there any other questions  
11 that you believe I should ask Ms. Cotellessa-Pitz in connection  
12 with this plea?

13 MS. BARONI: No, your Honor.

14 THE COURT: Ms. Cotellessa-Pitz, you have acknowledged  
15 that you are guilty as charged in the Information. I find that  
16 you know your rights and that you are waiving them voluntarily.

17 Because your plea is entered knowingly and voluntarily  
18 and is supported by an independent basis in fact containing  
19 each of the essential elements of each of the offenses, I  
20 accept your guilty plea, and I adjudge you guilty of the  
21 offenses charged in Counts One, Two, Three and Four of the  
22 Fifth Superseding Information.

23 Mr. Treanor, do you wish to be present for any  
24 interview of Ms. Cotellessa-Pitz in connection with the  
25 preparation of the presentence report?



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MR. TREANOR: Yes, your Honor.

THE COURT: I will make that direction.

Counsel, what is the desire of the parties with respect to setting a sentencing date?

MS. BARONI: Your Honor, the government would ask that your Honor set a sentencing control date for approximately six months into the future and that we would not ask that a presentence report be prepared at this time.

THE COURT: And you will inform the Court whether that date would need to be extended further or, alternatively, when it is an appropriate time to have the presentence report prepared?

MS. BARONI: We will.

THE COURT: Thank you.

Ms. Ng, may I have a control date six months out?

THE CLERK: Friday, June 22, 2012, at 11 a.m.

THE COURT: The sentencing control date is set for June 22, 2012, at 11 in the morning.

Counsel, when it is time for preparation for sentencing, please make sure that you make and file your submissions in accordance with the sentencing submission policy that I have posted on the court's website.

Ms. Cotellessa-Pitz, at some point in the future the Probation Office will be preparing a presentence report to assist me in sentencing you. You will be interviewed by the

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1 Probation Office. It is important that the information that  
2 you give to the probation officer be truthful and accurate.  
3 The report is important in my decision as to what your sentence  
4 will be. You and your attorneys have a right and will have an  
5 opportunity to examine the report, to challenge or comment on  
6 it, and to speak on your behalf before sentencing.

7 Failing to be truthful with the Probation Office and  
8 the Court may have an adverse effect on your sentence and may  
9 subject you to prosecution.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Thank you.

13 Is there an application with respect to bail pending  
14 sentencing?

15 MS. BARONI: Yes, your Honor. The parties have a  
16 proposal for your Honor's consideration with respect to a bail  
17 package.

18 It would be a \$2.5 million personal recognizance bond  
19 to be secured by eight financially-responsible people and to be  
20 also secured by at least \$800,000 in cash or property. None of  
21 the cash or property could come from proceeds of the fraud or  
22 from any forfeitable funds.

23 Further, the proposal would subject the defendant to  
24 strict pretrial supervision. Her travel would be restricted to  
25 the Southern and Eastern District of New York. She would

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1 surrender all travel documents and would not make any new  
2 travel applications.

3 Further, Judge, the government has interviewed eight  
4 of the defendant's proposed suriters already, and we are  
5 satisfied with respect to their qualifications. We think that  
6 they are financially responsible. They are very close family  
7 members and friends of the defendant, and we believe that they  
8 would have moral suasion over her.

9 Further, your Honor, the defendant has been working  
10 with the U.S. Attorney's Office and the FBI as well as the IRS  
11 for quite a long time now. She has met every appointment. She  
12 has been completely reliable, and the government believes that  
13 she has an overwhelming incentive to continue to cooperate and  
14 will not flee.

15 Further, as part of the cooperation process, she has  
16 filled out financial affidavits and submitted them to our  
17 office detailing all of her assets, the amounts and the  
18 location of those assets. She has also entered into a  
19 voluntary restraint agreement with the government relating to  
20 her assets.

21 And in light, your Honor, of her cooperation, which,  
22 as I said, has been ongoing for a long time, her full  
23 disclosure of her conduct while she was an employee at BLMIS,  
24 as well as full disclosure of her financial situation and all  
25 of her assets, the government believes that she will be

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1 compliant with the proposed bail package and with any rules set  
2 forth by Pretrial Services.

3 THE COURT: Does the government believe, on the basis  
4 of its factual investigation, that the evidence is clear and  
5 convincing that Ms. Cotellessa-Pitz will not pose a risk of  
6 flight or danger to the community?

7 MS. BARONI: Yes, your Honor.

8 THE COURT: And has the government investigated the  
9 proposed sources of the security?

10 MS. BARONI: Yes, we have.

11 THE COURT: And is the government satisfied that the  
12 sources are indeed unrelated to the particular forfeitable  
13 funds?

14 MS. BARONI: Yes, your Honor. They are not related to  
15 BLMIS in any way.

16 THE COURT: And what would be the government's  
17 proposal as to the deadline for satisfaction of these  
18 conditions?

19 MS. BARONI: Given the upcoming holidays, your Honor,  
20 we would be amenable to ten days to post the property and for  
21 the cosigners to sign the bond.

22 THE COURT: And so today being the 19th, that would be  
23 the 29th of December?

24 MR. TREANOR: Your Honor, if we could ask for  
25 January 3rd, just to get us past the holidays. It is a

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1 difficult time to get people focused on this. The courthouses  
2 aren't open all of the days between now an then. And so we  
3 have a number of cosigners ready to go, and we expect that that  
4 will be a pretty quick process getting the signatures. It is  
5 the property that may take a little bit longer. So we would  
6 ask for that additional time.

7 MS. BARONI: We have no objection to that, your Honor.

8 THE COURT: I will allow until January 3rd for  
9 satisfaction of the conditions.

10 And having reviewed the Pretrial Services' report and  
11 considered carefully the government's proffers regarding the  
12 proposed terms and its investigations in relation to those  
13 proposed terms, I find that they are sufficient and compliant  
14 with the relevant legal standards regarding bail pending  
15 sentencing, and I will grant release on those conditions, with  
16 the requirement that they be fully satisfied by why don't I  
17 call it 4 in the afternoon on January 3rd.

18 And I am going to now prepare a bail disposition sheet  
19 and I will show it to everyone to -- I'll show it to counsel to  
20 confirm that I have all of the conditions written properly.

21 (Pause)

22 Ms. Ng, would you hand a copy to each table and one to  
23 the court reporter, please.

24 The draft that I have handed out summarizes the bail  
25 conditions as follows: \$2.5 million PRB with 8 FRPs and

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1 \$800,000 cash or property security (such security must be  
2 unrelated to fraud proceeds and unrelated to forfeitable  
3 funds); strict pretrial supervision; travel restricted to  
4 S.D.N.Y./E.D.N.Y.; surrender travel documents and no new  
5 applications. All conditions must be satisfied by 4 p.m. on  
6 January 3, 2012.

7 Does that accurately cover the agreed conditions?

8 MS. BARONI: Yes, it does, your Honor.

9 If your Honor could add that she could be released  
10 today on a certain subset of cosigner signatures, either on her  
11 own signature or on a couple of other signatures, depending on  
12 how many people are here to sign?

13 THE COURT: How many do we have to sign?

14 MR. TREANOR: We have two here. I believe we have a  
15 third that will be here. We may have as many as five today.  
16 Of course, we have Ms. Pitz also.

17 THE COURT: I will permit release today on the  
18 signature of Ms. Pitz and three financially-responsible  
19 persons.

20 MR. TREANOR: Thank you, your Honor.

21 THE COURT: I will add that.

22 So I've added a sentence at the end that says:  
23 "Defendant may be released today on own signature and those of  
24 three FRPs."

25 So I will save and print those.

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1 How many copies to we need, Ms. Ng?

2 THE CLERK: Five.

3 (Pause)

4 THE COURT: Ms. Cotellessa-Pitz, did you hear the bail  
5 conditions as I have outlined them?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand them?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that you are legally  
10 obligated to comply with these conditions, and that the  
11 consequences of noncompliance can be severe?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Do you understand that if you fail to  
14 comply with the conditions, you are subject to remand and  
15 potentially subject to further penalty?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that if you do not  
18 return to my courtroom on the time and date that is ultimately  
19 set for sentencing, that you will be guilty of a crime  
20 separate, apart from -- separate and apart from the crimes to  
21 which you have just pled guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you understand that under such  
24 circumstances, you will be subject to penalties separate, apart  
25 from, and over and above any that may be imposed in connection

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1 with the crimes to which you have pled guilty?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Then I will fully expect you to comply  
4 with these conditions and to appear as scheduled for  
5 sentencing.

6 I will now sign the bail disposition sheet.

7 (Pause)

8 Is there a consent forfeiture order at this time, or  
9 is that something the parties contemplate to prepare later?

10 MS. BARONI: We will prepare it later, your Honor,  
11 prior to sentencing.

12 THE COURT: All right. I will enter my usual order  
13 regarding the preparation of a preliminary order of forfeiture.

14 Is there anything else that we need to take up  
15 together this afternoon?

16 MS. BARONI: Not from the government. Thank you, your  
17 Honor.

18 MR. TREANOR: No, your Honor.

19 THE COURT: Thank you.

20 Ms. Baroni, Mr. Moore, you will shepherd the process  
21 through the Magistrate Clerk's office in relation to the  
22 signing of the necessary documents?

23 MS. BARONI: Yes, Judge.

24 THE COURT: Thank you.

25 MR. MOORE: Thank you very much.



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1 THE COURT: I wish you all a safe and healthy  
2 holidays. Thank you all for being here today.

3 We are adjourned.

4 MR. MOORE: Thank you, your Honor. You, too.

5 THE CLERK: All rise.

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